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CONTACT: Sharon Curtis-Flair
(615) 741-5860

Attorney General Cooper Announces Lawsuit against Festiva for Telemarketing Act Violations and Deceptive Business Practices

Tennessee has filed a lawsuit against various entities operating a ‘timeshare’ and membership vacation club that allegedly employs deceptive techniques to market their products, Attorney General Bob Cooper and the Tennessee Division of Consumer Affairs of the Tennessee Department of Commerce and Insurance (TDCI) announced today. Tennessee’s lawsuit comes after a multi-state investigation of Festiva’s sales and marketing practices. Maine and Louisiana each filed suit against Festiva during December.

Tennessee’s Complaint alleges that Festiva operates a telemarketing and direct mail enterprise that uses fraudulent and deceptive tactics to lure Tennesseans into attending high-pressure sales presentations to buy vacation memberships. According to complaints reviewed by the Tennessee Attorney General’s Office, consumers are misled into believing that they have won or been selected for a valuable prize, but to claim the prize, they must comply with many undisclosed requirements including a lengthy, high-pressure sales presentation.

The State’s Complaint further alleges that Festiva memberships purchased by consumers were different from what was represented to those consumers and that the various Festiva membership programs have confusing rules and terms that make the membership difficult to use. Festiva purportedly capitalizes on this confusion in order to sell more of its products. For example, consumers have reported that the company calls its members to tell them that they are invited to an “owners update” meeting. Instead, consumers report that upon arrival at the meeting, they are confronted with another high-pressure sales presentation where Festiva tries to sell them more vacation products through “upgrades.”

The State alleges that consumers who purchased Festiva memberships are told that they can use their points to take vacations at various Festiva resorts around the country. In truth, according to consumers, it is nearly impossible to book a vacation because of the lack of available space at Festiva’s resorts, particularly at peak times and locations. Consumers report they were told by Festiva that they could save their points to use for a vacation in another year, but later learn that their points were lost because of Festiva’s limits on using accumulated points. The lawsuit further alleges that consumers are

surprised by bills for increasing maintenance fees and special assessments that they are required to pay even if they are unable to schedule a vacation at a Festiva resort.

“If you are tempted by a travel or vacation company that uses high pressure sales, it’s probably best to take your time and do your homework before you pay thousands of dollars and commit to paying maintenance fees and special assessments,” said General Cooper.

Deputy Commissioner for TDCI and Acting Consumer Affairs Director Steve Majchrzak said, “We encourage anyone with a complaint regarding any of Festiva’s entities to contact the Division of Consumer Affairs online at www.tn.gov/consumer or by calling (800) 342-8385 (toll-free in Tennessee) or (615) 741-4737.”

A copy of the Attorney General’s Complaint may be found on the Attorney General’s website by going to www.tn.gov/attorneygeneral and clicking on “Filings of Interest.”

Tennessee’s lawsuit is being filed under the Federal Telemarketing Act and the Tennessee Consumer Protection Act. The action was filed in federal court in Greeneville, Tennessee. Named in Tennessee’s suit are the following Festiva associated businesses, affiliates, and principal operators:

Escapes!, Inc., Escapes Travel Choices, LLC, Etourandtravel, Inc., Festiva Development Group, LLC, d/b/a Festiva Adventure Club, Festiva Real Estate Holdings, LLC, f/k/a Festiva Resorts, LLC, Festiva Resorts Adventure Club Members Association, Inc., Human Capital Solutions, LLC, f/k/a Festiva Resort Services, LLC, Resort Travel & Xchange, LLC, a/k/a RTX, f/k/a Festiva Travel & Xchange, LLC, a/k/a FTX, Patton Hospitality Management, LLC, f/k/a Festiva Management Group, LLC, Zealandia Capital, Inc., f/k/a SETI Marketing, Inc., Zealandia Holding Company, Inc., f/k/a Festiva Hospitality Group, Inc., Donald K. Clayton, Herbert H. Patrick, and Richard Hartnett (d/b/a 811 Development Corporation, Equivest Vacation Club, Escapes! Escapes, Inc., Escapes Travel Club, LLC, Etourandtravel, Inc., Festiva Adventure Club, Financial Information Services, Inc., Festiva Development Group, Festiva Hospitality Group, Inc., Festiva Resorts Services, Inc., Festiva Resorts Adventure Club Members’ Association, Inc., Festiva Resorts, LLC, Festiva Sailing Vacations, Inc., Festiva Travel & Xchange, FTX, Human Capital Solutions, Inc., Kosmas Group International, Inc., Peppertree Vacation Club, Resort Management Services, Inc., Resort Travel & Xchange, LLC, RTX, SETI Marketing, Inc., Zealandia Capital, Inc., Zealandia Holdings, LLC, and Zealandia Holding Company, Inc.), and relief defendants 811 Development Corporation, Festiva Sailing Vacations, LLC, Financial Information Services, Inc., Kosmas Group International, Inc., Resort Management Services, Inc., Zealandia Holdings, LLC, and Various Clayton and Patrick Family Trusts 1 – 10.